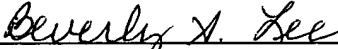




EXPRESS MAIL MAILING LABEL	
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DATE OF DEPOSIT: June 14, 2004	
I hereby certify that this paper or fee is being deposited with the United States Postal Service "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.	
 Beverly A. Lee	

In re application of: Keith G. Lintott

Art Unit: 1661

Appl. No.: 10/692,919

PTO Confirmation No.: 9063

Filed: October 24, 2003

Examiner: Annette H. Para

For: Chrysanthemum Plant Named 'Jenny
Wren Crimson'

Atty. Docket: 10451.0053.NPUS01

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Listed on accompanying PTO Form 1449 are documents and other information that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98. Copies of the documents are enclosed.

Enclosed is a copy of U.S. Plant Patent No. 6,888 entitled "Chrysanthemum Plant Named Bravo." The variety 'Bravo' is discussed in the Brief Summary of the Invention in the instant application.

06/18/2004 HVUDONG1 00000004 083038 10692919

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Enclosed is a copy of U.S. Plant Patent No. 10,213 entitled "Chrysanthemum Plant Named Jenny Wren." The variety 'Jenny Wren' is the parent of the variety that is the subject of the instant application and is discussed in the Brief Summary of the Invention.

Enclosed is a copy of a Royal Van Zanten Garden Mum 2002 Catalog ("the Garden Mum Catalog") listing a brief description of the Chrysanthemum variety 'Jenny Wren' at pages 9 and 14 and a color picture at page 11. The variety 'Jenny Wren Crimson,' the subject of the instant application, is also briefly described in the Garden Mum Catalog at pages 9 and 14. A color picture of the 'Jenny Wren Crimson' variety is shown at page 11.

Further enclosed is a copy of a declaration by Mr. Peter Hesse relating to the catalog. As explained in the declaration of Mr. Hesse, the Garden Mum catalog was not publicly available more than one year prior to the filing date of the instant application. Although the Applicant does not believe that the Garden Mum Catalog is effective prior art as to its disclosure of the instant variety 'Jenny Wren Crimson,' the circumstances of the public distribution of the catalog are disclosed here for the Examiner's review and consideration.

As seen from the declaration, Mr. Hesse is the former Marketing Manager of Royal Van Zanten LLC, Nipomo, California, which issued the Garden Mum Catalog. From July 1, 2000, until the spring of 2004, Royal Van Zanten produced and sold Chrysanthemum cuttings for pots, cut flowers and gardens. During that time, Royal Van Zanten was the exclusive distributor of Chrysanthemum varieties developed at Cleangro, Ltd., Chichester, West Sussex, United Kingdom. 'Jenny Wren Crimson,' the variety that is the subject of the instant application, was developed at Cleangro Ltd in Chichester, West Sussex, United Kingdom, as described in the instant application.

As set forth in Mr. Hesse's declaration, Royal Van Zanten sold its varieties to a select few customers directly or through Cleangro Ltd's exclusive sales representative, Ball Seed

Company, Chicago Illinois. Royal Van Zanten advertised the Chrysanthemum varieties by catalogs, including the Garden Mum Catalog.

According to Mr. Hesse's declaration, the Garden Mum Catalog was printed and delivered to Royal Van Zanten on or about October 12, 2001. Copies of the Garden Mum Catalog were given to sales representatives of Ball Seed at a conference in Chicago on or about Wednesday, October 17, 2001. A draft mailing list for distribution of the catalog by Royal Van Zanten to potential customers was first created at Ball Seed as a spreadsheet on Friday, October 22, 2001. A letter to be inserted into the catalog for distribution was created at Ball Seed as a Microsoft Word document on Monday, October 22, 2001. A copy of the draft letter is attached to Mr. Hesse's declaration as Exhibit B.

From the series of events described by Mr. Hesse, it appears that the catalog was not ready for distribution to potential customers prior to at least Tuesday October 23, 2001 following preparation of the letter insert. Moreover, the catalogs did not include pricing information. As evident from the letter insert, it would have been necessary for customers to contact Ball Seed, the sales representative, or, in the case of a few select customers, Royal Van Zanten, to obtain at least pricing information for the varieties listed in the Garden Mum Catalog.

According to Mr. Hesse's declaration, Royal Van Zanten typically distributed catalogs such as the Garden Mum Catalog through bulk mail at the Standard Mail rate of the United States Post Office. The Post Office advertises on its website that the delivery time for Standard Mail shipping for catalogs of the size and weight of the Garden Mum Catalog is at least 2-9 days for locations throughout the United States. As noted in Mr. Hesse's declaration, the Post office confirmed that this delivery rate would have applied in 2001 also, when the catalog was actually distributed.

Finally, Mr. Hesse confirms that the Garden Mum Catalog was the first published disclosure in the United States by Royal Van Zanten or Ball Seed for, among others, the Chrysanthemum variety 'Jenny Wren Crimson.'

Based upon the information contained in the declaration of Mr. Hesse, Applicant does not believe that the Garden Mum Catalog was available more than one year prior to the filing date of the instant variety 'Jenny Wren Crimson.' The instant application was filed on October 24, 2003, claiming priority to provisional application Serial No. 60/421,389, originally filed on October 25, 2002. Potential customers of Royal Van Zanten or Ball Seed would not have received the Garden Mum Catalog for at least two days after mailing or until October 25, 2001 at the earliest, which is not more than one year prior to the effective U.S. filing date for this application. Moreover, inasmuch as the catalog did not include pricing information, it does not appear to have constituted an offer to sell the varieties listed there, but rather only an advertisement of them, again not more than a year prior to the effective U.S. filing date for this application.

To the Applicant's knowledge, the instant plant variety, 'Jenny Wren Crimson,' has not been sold, offered for sale, or otherwise made publicly available in the United States or elsewhere more than one year prior to the effective U.S. application filing date. Moreover, the instant variety has not been the subject of an application for protection in any other country, or appeared in any other printed publication, more than one year prior to the U.S. filing date for this application.

Applicant reserves the right to establish the patentability of the claimed invention over any of the information provided here, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

It is respectfully requested that the Examiner initial and return a copy of the enclosed PTO-1449, and to indicate in the official file wrapper of this patent application that the documents have been considered.

It is believed that this disclosure complies with the requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98, and the Manual of Patent Examining Procedures § 609. If for some reason the Examiner considers otherwise, or requires additional information, Applicant requests that the Examiner call the undersigned so that any deficiencies can be remedied.

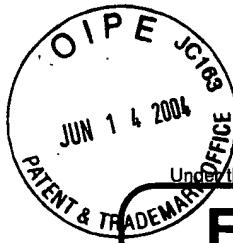
The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to Deposit Account No. 08-3038 referencing docket number 10451.0053.NPUS01.

Dated: June 14, 2004

Respectfully submitted,



Mark K. Dickson
Attorney Reg. No. 32,889
HOWREY SIMON ARNOLD & WHITE, LLP
301 Ravenswood Avenue
Menlo Park, CA 94025
(650) 463-8234



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 180.00)

Complete if Known

Application Number	10/692,919
Filing Date	October 24, 2003
First Named Inventor	Keith G. Lintott
Examiner Name	Annette H. Para
Art Unit	1661
Attorney Docket No.	10451.0053.NPUS01

METHOD OF PAYMENT (check all that apply)

Check Credit card Money Order Other None

Deposit Account:

Deposit Account Number 08-3038
Deposit Account Name Howrey Simon, et al.

The Director is authorized to: (check all that apply)

Charge fee(s) indicated below Credit any overpayments
 Charge any additional fee(s) or any underpayment of fee(s)
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION**1. BASIC FILING FEE**

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)		
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005. 160	2005 80	Provisional filing fee	
SUBTOTAL (1) (\$)			

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Extra Claims	Fee from below	Fee Paid
Total Claims		-20** =	
Independent Claims		-3** =	
Multiple Dependent		=	

Large Entity	Small Entity	Fee Description
Fee Code (\$)	Fee Code (\$)	
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent
SUBTOTAL (2) (\$)		

**or number previously paid, if greater; For Reissues, see above

3. ADDITIONAL FEES

Large Entity	Small Entity	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	\$180.00
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	
Other fee (specify) _____			
*Reduced by Basic Filing Fee Paid			
SUBTOTAL (3) (\$ 180.00)			

(Complete if applicable)

Name (Print/Type)	MARK K. DICKSON	<i>Mark K. Dickson</i>	Registration No. (Attorney/Agent)	32,889	Telephone	650-463-8234
Signature			Date		JUNE 14, 2004	

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



LIST OF REFERENCES CITED BY APPLICANT <i>(Use several sheets if necessary)</i> PTO FORM 1449		ATTY. DOCKET NO. *10451.0053.NPUS01	APPLICATION NO. *10/692,919
		APPLICANT *Keith G. Lintott	
		FILING DATE *October 24, 2003	GROUP *1661

U.S. PATENT DOCUMENTS							
*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	1.	Plant 10,213	1/27/1998	Wain	Plt./76		10/18/1996
	2.	Plant 6,888	6/27/1989	Mack	Plt./82		9/16/1987
	3.						
	4.						
FOREIGN PATENT DOCUMENTS							
*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES NO
	5.						
	6.						
	7.						
OTHER REFERENCES <i>(Including Author, Title, Date, Pertinent Pages, Etc.)</i>							
	8.	Royal Van Zanten Garden Mum Catalog 2002 listing Chrysanthemum variety 'Jenny Wren Crimson' at pages 9 and 11 (color picture) and 14. The catalog also lists parent variety 'Jenny Wren' at pages 9 and 11 (color picture) and 14.					
	9.						
	10.						
	11.						
	12.						
	13.						
	14.						
	15.						
	16.						

***EXAMINER:** Initial if reference considered, whether or not citation is in conformance with MPEP 609;
 Draw line through citation if not in conformance and not considered. Include copy of this form with next
 communication to applicant.